



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

April 7, 2017

Ms. Sheila Swan
Administrative Assistant
Office of the Sheriff
County of Angelina
P.O. Box 114
Lufkin, Texas 75902-0114

OR2017-07403

Dear Ms. Swan:

You ask whether certain information is subject to required public disclosure under the Public Information Act (the "Act"), chapter 552 of the Government Code. Your request was assigned ID# 652985.

The Angelina County Sheriff's Office (the "sheriff's office") received a request for the design plans of the Angelina County Jail Complex (the "county jail complex"). The sheriff's office claims the submitted information is excepted from disclosure under sections 552.101, 552.108, and 552.152 of the Government Code. Additionally, the sheriff's office states release of the submitted information may implicate the proprietary interests of Huckabee & Associates, Inc. Accordingly, the sheriff's office states, and provides documentation showing, it notified the third party of the request for information and of its right to submit arguments to this office as to why the submitted information should not be released.¹ *See* Gov't Code § 552.305(d); *see also* Open Records Decision No. 542 (1990) (statutory predecessor to section 552.305 permits governmental body to rely on interested third party to raise and explain applicability of exception in the Act in certain circumstances). We have considered the claimed exceptions and reviewed the submitted representative sample of information.²

¹As of the date of this letter, this office has not received comments from the third party explaining why any of the submitted information should not be released.

²We assume the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent those records contain substantially different types of information than that submitted to this office.

Section 552.101 of the Government Code excepts from disclosure “information considered to be confidential by law, either constitutional, statutory, or by judicial decision.” Gov’t Code § 552.101. This section encompasses information that is made confidential by other statutes. The sheriff’s office raises section 552.101 in conjunction with section 418.181 of the Government Code. Sections 418.176 through 418.182 were added to chapter 418 of the Government Code as part of the Texas Homeland Security Act (the “HSA”). Section 418.181 provides:

Those documents or portions of documents in the possession of a governmental entity are confidential if they identify the technical details of particular vulnerabilities of critical infrastructure to an act of terrorism.

Id. § 418.181. The fact that information may relate to a governmental body’s security measures does not make the information *per se* confidential under the HSA. *See* Open Records Decision No. 649 at 3 (1996) (language of confidentiality provision controls scope of its protection). Furthermore, the mere recitation of a statute’s key terms is not sufficient to demonstrate the applicability of the claimed provision. As with any exception to disclosure, a claim under section 418.181 must be accompanied by an adequate explanation of how the responsive records fall within the scope of the claimed provision. *See* Gov’t Code § 552.301(e)(1)(A) (governmental body must explain how claimed exception to disclosure applies).

The sheriff’s office states “the [county] jail complex is . . . an asset vital to the security and safety of the state.” The sheriff’s office asserts release of the information at issue “would put both [employees] and [inmates] at risk to anyone wishing to use the plans for improper purposes.” We agree the county jail complex constitutes critical infrastructure. *See id.* § 421.001 (defining “critical infrastructure” to include “all public or private assets, systems, and functions vital to the security, governance, public health and safety, economy, or morale of the state or the nation”). Based on the sheriff’s office’s representations and our review, we conclude the submitted information identifies the technical details of particular vulnerabilities of critical infrastructure to an act of terrorism. Therefore, the submitted information must be withheld under section 552.101 of the Government Code in conjunction with section 418.181 of the Government Code.³

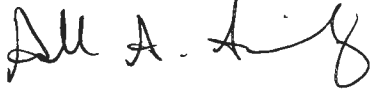
This letter ruling is limited to the particular information at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other information or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at <http://www.texasattorneygeneral.gov/open/>

³As our ruling is dispositive, we need not address the remaining argument against disclosure of the submitted information.

[orl_ruling_info.shtml](#), or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Act may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,

A handwritten signature in black ink, appearing to read "Gerald A. Arismendez". The signature is fluid and cursive, with the first name "Gerald" being the most prominent.

Gerald A. Arismendez
Assistant Attorney General
Open Records Division

GAA/som

Ref: ID# 652985

Enc. Submitted documents

c: Requestor
(w/o enclosures)

Third Party
(w/o enclosures)